

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

LUIS VAZQUEZ	:	CIVIL ACTION
	:	
v.	:	NO. 07-cv-2647-JF
	:	
UNITED STATES OF AMERICA	:	(Criminal No. 03-548-01)

MEMORANDUM AND ORDER

Fullam, Sr. J.

July 10, 2007

Plaintiff, Luis Vazquez, was sentenced on February 15, 2005 to a lengthy term of imprisonment, following his conviction for distribution of more than 500 grams of cocaine, in violation of 21 U.S.C. § 841(a)(1) and 21 U.S.C. § 841(b)(1)(b). He appealed, asserting that the evidence was insufficient to support the verdict. The Third Circuit Court of Appeals affirmed.

Plaintiff has now filed a motion for relief under 28 U.S.C. § 2255, asserting (1) that the evidence at trial was insufficient to support his conviction, and (2) that his counsel was ineffective for failing to convince the jury and the Third Circuit Court of Appeals that the evidence was insufficient.

Petitioner has submitted a comprehensive brief in support of his application, and it is now quite clear that petitioner's entire argument is based upon the proposition that the testimony of an undercover informant (a participant in the cocaine transactions who did not disclose that he was cooperating with the government) cannot be considered in evaluating the

sufficiency of the evidence at trial. The fallacy of this argument is obvious. Indeed, as the Court of Appeals has already determined, the trial evidence amply supported the jury's verdict. There is simply no valid basis for questioning the adequacy of petitioner's counsel, either at trial or on appeal. The pending application will therefore be dismissed as legally frivolous.

An Order follows.

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ORDER

AND NOW, this 10<sup>th</sup> day of July, 2007, upon  
consideration of the motion of Luis Vazquez for relief under 28  
U.S.C. § 2255, IT IS ORDERED:

1. That the petition is DISMISSED with prejudice.
2. There is no probable cause for the issuance of a  
certificate of appealability.

BY THE COURT:

/s/ John P. Fullam  
John P. Fullam, Sr. J.